

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of MERAL D. GREENHILL and DEPARTMENT OF THE NAVY,  
CHARLESTON NAVAL SHIPYARD, Charleston, SC

*Docket No. 98-113; Submitted on the Record;  
Issued August 10, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant's chronic myelogenous leukemia is causally related to his occupational exposure to ionizing radiation.

In a decision dated November 18, 1996, the Office of Workers' Compensation Programs found that the evidence of file supported that the claimed events, incidents or exposure occurred at the times, places and in the manners alleged. In his work with nuclear submarines from 1974 to 1981 and from 1986 to 1990, appellant received a cumulative lifetime occupational exposure to ionizing radiation in the amount of 0.065 rem, including a maximum yearly dose of 0.023 rem in 1977. The Office found, nonetheless, that the medical evidence of record failed to establish that a medical condition resulted from this accepted exposure.

The Board finds that appellant has not met his burden of proof to establish that his chronic myelogenous leukemia is causally related to his occupational exposure to ionizing radiation.

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</sup> has the burden of proof to establish the essential elements of his claim. When an employee claims that he sustained an injury in the performance of duty, he must submit sufficient evidence to establish that he experienced a specific event, incident or exposure occurring at the time, place and in the manner alleged. He must also establish that such event, incident or exposure caused an injury.<sup>2</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> See generally *Abe E. Scott*, 45 ECAB 164 (1993); *John J. Carlone*, 41 ECAB 354 (1989); see also 5 U.S.C. § 8101(5) ("injury" defined); 20 C.F.R. §§ 10.5(a)(15)-.5(a)(16) ("traumatic injury" and "occupational disease or illness" defined).

The Office accepts that appellant's federal employment as a production controller exposed him to specific levels of ionizing radiation. The question for determination is whether these levels of ionizing radiation caused or contributed to appellant's chronic myelogenous leukemia.

Causal relationship is a medical issue,<sup>3</sup> and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence that includes a physician's rationalized opinion on whether there is a causal relationship between the claimant's diagnosed condition and the established employment incident or exposure. The opinion of the physician must be based on a complete factual and medical background,<sup>4</sup> must be one of reasonable medical certainty<sup>5</sup> and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the established employment incident or exposure.<sup>6</sup>

To support his claim, appellant submitted a June 16, 1994 form report from Dr. Ron D. Schiff, a specialist in medical oncology and hematology. With an affirmative mark, Dr. Schiff indicated that appellant's chronic myelogenous leukemia was caused or aggravated by employment activity. He explained: "Prolonged occupational radiation exposure during employment in U.S. Navy nuclear program."

Although Dr. Schiff's opinion is generally supportive of appellant's claim, it is insufficient to establish the critical element of causal relationship and to discharge appellant's burden of proof. First, Dr. Schiff gave no indication that he understood the extent of appellant's exposure. Without a description of the details of appellant's exposure history, his opinion is of little probative value because it is not apparent from his report that he based his opinion on an accurate factual background.<sup>7</sup> Second, Dr. Schiff failed to explain from a medical point of view how appellant's level of exposure to ionizing radiation caused or aggravated his chronic myelogenous leukemia. Although he implicated prolonged occupational radiation exposure, Dr. Schiff did not discuss how such exposure can cause or contribute to chronic myelogenous leukemia or how he was able to conclude to a reasonable medical certainty that such cause or contribution occurred in appellant's case. It is not necessary that the evidence be so conclusive as to suggest causal connection beyond all possible doubt in the mind of a medical scientist. The evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rational, sound and logical.<sup>8</sup> Appellant's burden includes the necessity of furnishing an

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<sup>3</sup> *Mary J. Briggs*, 37 ECAB 578 (1986).

<sup>4</sup> *William Nimitz, Jr.*, 30 ECAB 567, 570 (1979).

<sup>5</sup> *See Morris Scanlon*, 11 ECAB 384, 385 (1960).

<sup>6</sup> *See William E. Enright*, 31 ECAB 426, 430 (1980).

<sup>7</sup> *See James A. Wyrick*, 31 ECAB 1805 (1980) (physician's report was entitled to little probative value because the history was both inaccurate and incomplete); *see generally Melvina Jackson*, 38 ECAB 443, 450 (1987) (addressing factors that bear on the probative value of medical opinions).

<sup>8</sup> *Kenneth J. Deerman*, 34 ECAB 641, 645 (1983) and cases cited therein at note 1.

affirmative opinion from a physician who supports his conclusion with sound medical reasoning. Dr. Schiff supported his opinion with little more than a checkmark “yes” to a form question and for this reason his opinion is of little probative value and is insufficient to establish the critical element of causal relationship.<sup>9</sup>

In addition to the lack of probative medical opinion evidence supporting appellant’s claim, the Board notes that the record contains an October 3, 1994 report from the Radiation Effects Advisory Board (REAB) supporting that appellant’s occupational exposure to ionizing radiation did not cause or aggravate his leukemia. Board-certified specialists in internal medicine, radiology, radiation oncology and medical nuclear physics signed the report. The REAB related appellant’s history and enclosed a summary of his radiation exposure history from 1974 to 1990 by quarter year. The REAB concluded that appellant’s occupational exposure was well below all Federal radiation exposure limits and was negligible compared to the exposure he received from natural sources during the same time period. Using radioepidemiological tables that allow a determination of the probability that a given cancer could result from prior exposure to ionizing radiation, the REAB reported that appellant’s probability of causation was much less than one percent.

Unlike Dr. Schiff’s form report, the REAB report demonstrates an understanding of appellant’s occupational radiation exposure history. It is, therefore, apparent that the REAB founded its opinion on an accurate factual history. Further, the REAB supported its opinion by establishing the relationship between elevated incidences of leukemia and exposure to high doses of ionizing radiation, by comparing his occupational exposure to exposure from natural sources, by referring to developed radioepidemiological tables and by calculating the probability of causation for appellant’s disease and prior radiation exposure. This kind of reasoning appears rational, sound and logical and lends considerably more evidentiary value to the opinion of the REAB than can be accorded the June 16, 1994 form report completed by Dr. Schiff.<sup>10</sup>

Because the weight of the medical opinion evidence of record fails to support a causal relationship between appellant’s accepted occupational exposure to ionizing radiation and his chronic myelogenous leukemia, appellant has not discharged his burden of proof.

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<sup>9</sup> *E.g., Lillian M. Jones*, 34 ECAB 379 (1982).

<sup>10</sup> Newspaper clippings, medical texts and excerpts from publications are of no evidentiary value in establishing the necessary causal relationship as they are of general application and are not determinative of whether the specific condition claimed was causally related to the accepted employment exposure. *Gaetan F. Valenza*, 35 ECAB 763 (1984); *Kenneth S. Vansick*, 31 ECAB 1132 (1980).

The November 18, 1996 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.  
August 10, 1999

Michael J. Walsh  
Chairman

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member